

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ORLANDO MONTES, as Personal  
Representative of Viola Montes and individually,

No. 2:16-cv-00126-JCH/SMV

Plaintiff,

v.

PINNACLE PROPANE, LLC;  
ALLEN SULTEMEIER; COUNTY OF  
LINCOLN, by and through its County  
Commission; LINCOLN COUNTY FAIR  
ASSOCIATION, a not for profit  
corporation; JOHN DOES I-II,

Defendants.

**CONFIDENTIALITY ORDER**

It is hereby ordered that the following provisions shall govern claims of confidentiality in these proceedings:

- a) Review of the confidential documents and information by counsel, experts, or consultants for the litigants in the litigation shall not waive the confidentiality of the documents or objections to production.
- b) The inadvertent, unintentional, or *in camera* disclosure of a confidential document and information shall not be deemed a waiver, in whole or in part, of any party's claim of confidentiality.
- c) Only documents containing training materials, testing materials, policies and procedures, trade secrets, special formulas, company security matters, customer lists, financial data, projected sales data, production data, matters relating to mergers, and acquisitions, and data which touch upon the topic of price may be designated confidential, provided such documents have not previously been disclosed by the producing party to anyone except those in its employment or those retained by it. Such documents or parts thereof will be designated after review by an attorney for the producing party by stamping the word confidential on each page. Discovery material containing trade secrets, or other confidential or proprietary research, development, manufacturing, or commercial or business information, may be designated as confidential. Without a prejudice to a party's right to seek production of the following information or of a party to object to its production, the information subject to a confidentiality designation may include the following: customer names; proprietary

licensing, distribution, marketing, design, development, research, and manufacturing information – not publicly filed with any federal or state regulatory authority; production information; personnel records and information; and financial information not publicly filed with any federal or state regulatory authority.

- d) If any party believes a document not described in the above paragraph should nevertheless be considered confidential, it may make application to the court. Such application shall only be granted for reasons shown for extraordinary grounds.
- e) Documents designated confidential shall be shown only to the attorneys, the parties, parties' experts, actual or proposed witnesses, and other persons whom the attorneys deem necessary to review the documents for the prosecution or defense of this lawsuit. Each person who is permitted to see confidential documents shall first be shown a copy of this order and shall further be advised of the obligation to honor the confidentiality designation.
- f) If a party believes that a document designated or sought to be designated confidential by the producing party does not warrant such designation, the party shall first make a good-faith effort to resolve such a dispute with opposing counsel. In the event that such a dispute cannot be resolved by the parties, either party may apply to the court for a determination as to whether the designation is appropriate. The burden rests on the party seeking confidentiality to demonstrate that such designation is proper.
- g) At the time of deposition or within 10 days after receipt of the deposition transcript, a party may designate as confidential specific portions of the transcript which contain confidential matters under the standards set forth in paragraph (a) above. This designation shall be in writing and served upon all counsel. No objection shall be interposed at deposition that an answer would elicit confidential information. Transcripts will be treated as confidential for this 10-day period. Any portions of a transcript designated confidential shall thereafter be treated as confidential in accordance with this order. In filing materials with the court in pretrial proceedings, counsel shall file under seal only those specific documents and that deposition testimony designated confidential, and only those specific portions of briefs, applications, and other filings that contain verbatim confidential date, or that set forth the substance of such confidential information.
- h) In any application to the court referred to or permitted by this order, the court may exercise discretion in determining whether the prevailing party in such dispute may recover the costs incurred by it and, if so, the amount to be awarded.




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**Stephan M. Vidmar**  
**United States Magistrate Judge**

APPROVED AS TO FORM:

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